

Article 1. TERMS AND CONDITIONS OF PAYMENT.

Section 1.01 *Monthly Premium Payments.*

(a) The CONTRACTOR agrees to provide the Services and Deliverables described in this contract for monthly premium payments to be paid by HHSC to the CONTRACTOR.

(b) CONTRACTOR understands and expressly assumes all risks associated with the commitment of delivery of the Services and Deliverables, including the failure, termination or suspension of funding to HHSC, delays or denials of required approvals, and cost overruns not reasonably attributable to HHSC. To the extent that funding or required approvals are not provided, CONTRACTOR is not further obligated to provide Services or Deliverables beyond any Service or Deliverable for which HHSC is unable to provide acceptable assurances of available funding.

(c) CONTRACTOR further agrees that:

(1) No additional charges, fees, or costs will be added to the monthly premium amount and the delivery supplemental payment described in section ____ or sought except for properly authorized and executed Change Orders; and

(2) No other charges for tasks, functions, or activities that are incidental or ancillary to the delivery of the Services and Deliverables will be sought from HHSC or any other state agency, nor will the failure of HHSC or any other party to pay for such incidental or ancillary services entitle CONTRACTOR to withhold Services or Deliverables due under the Agreement.

Section 1.02 *Time and manner of payment.*

(a) *Monthly premium payment.(if not selecting supplemental reimbursement)*

The CONTRACTOR will be paid based on per member/per month premiums and new, current, and retroactive enrollment figures (including disenrollment adjustments to previous monthly enrollment totals). The administrative contractor will convey this premiums payable information to the CONTRACTOR for data reconciliation and then transmit the reconciled data to HHSC or its designee, which will pay the CONTRACTOR each health plan accordingly by the first working day following the 14th day of each month. For the first year of the Initial Term, these premium rates are:

CSA #	Under Age 1	Ages 1-5	Ages 6-14	Ages 15-18

The CONTRACTOR does not bill HHSC, the administrative contractor, other state agencies, or institutions for the monthly premium payment.

(b) Monthly premium payment (if selecting supplemental reimbursement)

For the first year of the Initial Term, the CONTRACTOR will be receiving supplemental reimbursement at the attachment level of \$_____ {select: \$75,000, \$100,000, \$125,000, or \$150,000}. The CONTRACTOR will be paid based on per member/per month premiums and new, current, and retroactive enrollment figures (including disenrollment adjustments to previous monthly enrollment totals). The administrative contractor will convey this premiums payable information to the CONTRACTOR for data reconciliation and then transmit the reconciled data to HHSC or its designee, which will pay the CONTRACTOR each health plan accordingly by the first working day following the 14th day of each month. The premium rates have been reduced to recognize the level of supplemental reimbursement selected by the CONTRACTOR. Monthly premium payments will be paid to the CONTRACTOR by the Administrative Services Contractor on the first working day following the 14th day of the month of the coverage period. For the first year of the Initial Term, these premium rates are:

CSA #	Under Age 1	Ages 1-5	Ages 6-14	Ages 15-18

The CONTRACTOR does not bill HHSC, the administrative contractor, other state agencies, or institutions for the monthly premium payment.

Claim costs for any child incurred with dates of service and payment between May 1, 2000, and April 30, 2001 that exceed the selected supplemental reimbursement attachment level will be assumed by the program. These claim costs must represent actual expenses incurred by the CONTRACTOR for CHIP benefits. The supplemental reimbursement applies to all enrollees during the first year of the Initial Term.

Note: How these claims will be submitted is still under development.

HHSC will pay the supplemental reimbursement claims in compliance with the clean claims payment timeframe in article _____, Texas Insurance Code.

HHSC or its designee may audit all claims for an individual whose costs have exceed the supplemental reimbursement attachment level.

Section 1.03 Delivery Supplemental Payment (DSP).

A one-time-per-pregnancy supplemental payment for each delivery shall be paid to the CONTRACTOR in the amount of \$3,000.00. The CONTRACTOR will receive a DSP for each live

or still birth. The one-time payment is made regardless of whether there is a single birth or multiple births at the time of delivery. For purposes of this section, a “delivery” is the birth of a live-born infant, regardless of the duration of the pregnancy, or a stillborn (fetal death) infant of 20 weeks or more gestation. A delivery does not include a spontaneous or induced abortion, regardless of the duration of the pregnancy.

The CONTRACTOR must submit a monthly DSP report to the administrative contractor by the ____ day of each month. The DSP report must include the number of unduplicated deliveries for which the CONTRACTOR has made a payment either to a hospital or other provider and the CHIP-identification number for the mother. No DSP will be made for deliveries which are not reported by the CONTRACTOR to the administrative contractor within 120 days from the receipt of claim, or within 60 days from the date of discharge from the hospital for the stay related to the delivery, whichever is later.

HHSC reserves the right to audit the submitted DSP reports and supporting documentation to ensure the accuracy of those reports. The DSP will be made by the administrative contractor twenty (20) state working days after receiving an accurate report from CONTRACTOR.

Section 1.04 *Premium rates after the first year of the Initial Term.*

HHSC will review the methodology submitted by the CONTRACTOR for determining subsequent premium rate changes to determine if a rate change is needed for the second and third years of the Initial Term. The premium rate caps will be established by HHSC. HHSC will provide any revisions to the premium rate changes for the second and third year of the Initial Term no later than 30 days before the date of the one-year anniversary of the Implementation Date.

Once the CONTRACTOR has received any premium rate change for the second and third years of the Initial Term, the CONTRACTOR may terminate this Agreement as provided in section ____ of this Agreement.

Section 1.05 *Adjustments to premium payments.*

HHSC, TDH, or the Administrative Contractor may recoup premiums paid to the CONTRACTOR in error. The error may be either human or machine error on the part of HHSC, TDH, or the Administrative Contractor. HHSC, TDH, or the Administrative Contractor may also recoup premiums paid to CONTRACTOR if a CHIP-eligible child is enrolled into the CONTRACTOR in error and CONTRACTOR provides no CHIP benefits to the child for the period of time for which the monthly premium payment was made. If the CONTRACTOR provided services to the child as a result of the error during the time period for which the monthly premium payment was made, no recoupment will occur.

HHSC, TDH, or the Administrative Contractor may recoup monthly premium payments paid to the CONTRACTOR if an enrollee for whom the monthly premium payment is made moves outside the United States and the CONTRACTOR has not provided CHIP benefits to the enrollee during the period of time for which the monthly premium payment is made.

HHSC, TDH, or the Administrative Contractor may recoup a monthly premium payment made to the CONTRACTOR for an enrollee if the enrollee's eligibility status is changed, corrected as a result of error, or retroactively adjusted.

Section 1.06 Experience rebate.

For the Initial Term, the CONTRACTOR must pay to HHSC an experience rebate calculated in accordance with the tiered rebate method listed below based on the excess of allowable CHIP HMO revenues over allowable CHIP HMO expenses as measured by any positive amount on Line 7, Net Income Before Taxes, of "Part 1: CHIP Financial Summary, All Coverage Groups Combined" of the annual Financial-Statistical Report contained in Appendix __, as reviewed and confirmed by HHSC or its contractor.

Graduated Rebate Method

Experience Rebate as a Percentage of Revenues	CONTRACTOR Share	HHSC Share
0% - 3%	100%	0%
Over 3% - 7%	75%	25%
Over 7% - 10%	50%	50%
Over 10% - 15%	25%	75%

Note: Provisions regarding carry-forward of losses is under development.

If the CONTRACTOR operates in multiple CSAs, losses in one CSA can not be used to offset net income before taxes in another CSA.

The CONTRACTOR may subtract from an experience rebate that is owed to HHSC any expenses for population-based health initiatives that have been approved by HHSC.

A population-based initiative is a project or program designed to improve some aspect of quality of care, quality of life, or health care knowledge for children and/or their adult caretakers, as a whole. Value-added services and services and activities required under this Agreement do not constitute population-based initiatives.

There will be two settlements for payment(s) of the state share of the experience rebate. The first settlement shall equal 100% of the state share of the experience rebate as derived from Line 7, Net Income Before Taxes, of "Part 1: CHIP Financial Summary, All Groups Combined" of the annual CHIP Financial-Statistical (CFS) Report contained in Appendix __ and shall be paid on the same day the first annual CFS Report is submitted to the Administrative Contractor or HHSC. The second settlement shall be an adjustment to the first settlement and shall be paid to HHSC on the same day that the second annual CFS Report is submitted to the Administrative Contractor or HHSC if the adjustment is a payment from the CONTRACTOR to HHSC. HHSC or its agent may audit or review the CFS reports. If HHSC determines that corrections to the CFS reports are required based on an HHSC audit/review or other documentation acceptable to HHSC, to determine an adjustment to the amount of the second settlement, then final adjustment shall be made within two years from the date that the CONTRACTOR submits the second annual CFS report. The CONTRACTOR must pay the first and second settlements on the due dates for the first and second CFS reports respectively as identified in section _____. HHSC may adjust the experience rebate if HHSC determines that the

CONTRACTOR has paid affiliates amounts for goods or services that are higher than the fair market value of the goods and services in the service area. Fair market value may be based on the amount the CONTRACTOR pays a non-affiliate(s) or the amount another health maintenance organization pays for the same or similar service in the service area. HHSC has final authority in auditing and determining the amount of the experience rebate.

Section 1.07 *Restriction on assignment of fees.*

During the term of the Agreement CONTRACTOR may not, directly or indirectly, assign to any third party any beneficial or legal interest of CONTRACTOR in or to any payments to be made by HHSC pursuant to this Agreement.

Section 1.08 *Liability for taxes.*

HHSC is not responsible in any way for the payment of any Federal, state or local taxes related to or incurred in connection with the Services or Deliverables or this Agreement. CONTRACTOR must pay and discharge any and all such taxes, including any penalties and interest.

Section 1.09 *Liability for employment-related charges and benefits.*

CONTRACTOR will perform work under this Agreement as an independent contractor and not as agent or representative of HHSC. CONTRACTOR is solely and exclusively liable for all taxes and employment-related charges incurred in connection with the performance of this Agreement. HHSC will not be liable for any employment-related charges or benefits of CONTRACTOR, such as workers compensation benefits, unemployment insurance and benefits, or fringe benefits.

Section 1.10 *Liability for overtime compensation.*

CONTRACTOR will be solely responsible for any obligations of overtime pay due employees.